

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION**

HUNTER DOSTER, *et al.*,

Plaintiffs,

v.

FRANK KENDALL, *et al.*,

Defendants.

No. 1:22-cv-00084
Hon. Matthew W. McFarland

**DEFENDANTS' RESPONSE REGARDING ONGOING PROCEEDINGS UNDER
THE UNIFORM CODE OF MILITARY JUSTICE**

Defendants submit this notice in response to the Court's request that the Air Force provide "within 7 days" a list of "any court-martials that are in process" based on a class member's refusal to comply with an order to receive a COVID-19 vaccine "in which the members have been sworn or a witness having been sworn such that jeopardy has attached." Order, ECF No. 77, PgID #4540.

Defendants respond that they are not aware of any ongoing court-martial related to a refusal to receive a COVID-19 vaccine that involves a class member, however there are approximately 23 ongoing proceedings authorized by the Uniform Code of Military Justice (10 U.S. Code, Ch. 47, "UCMJ") related to a refusal to receive a COVID-19 vaccine that involve a class member. All of those known, ongoing proceedings are under 10 U.S.C. § 815 (Article 15) of the UCMJ, which authorizes non-judicial punishment. Any member subject to Article 15 punishment has the right to turn down the Article 15 action and demand trial by court-martial. *See* 10 U.S.C. § 815(a). All members participating in Article 15 actions voluntarily waived their right to court-martial and accepted the Article 15 proceedings. The identities of individuals subject to non-judicial punishment is confidential, so the Defendants can provide a list of individuals currently subject to Article 15 punishment under seal at the Court's request.

Dated: August 3, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

On August 3, 2021, I electronically submitted the foregoing document using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary A. Avallone

Zachary A. Avallone

Trial Attorney

U.S. Department of Justice